

IN THE MATTER OF LICENSE NO. 351 455 MERCHANT MARINER'S DOCUMENT
NO. Z-203 590-D3 AND ALL OTHER SEAMAN DOCUMENTS

Issued to: Carl C. Fowler

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1650

Carl C. Fowler

This appeal has been taken in accordance with Title 46 United States Code 239(g), and Title 46 Code of Federal Regulations 137.30-1.

By order dated 6 July 1966, an Examiner of the United States Coast Guard at San Francisco, Calif. suspended Appellant's seaman documents for six months outright plus six months on twelve months' probation upon finding him guilty of misconduct. The specifications found proved allege that while serving as a First Assistant Engineer on board the United States SS BOWLING GREEN under authority of the license above described; Appellant was absent from his vessel without permission from 3 to 11 April 1966; wrongfully failed to perform his duties on 11 and 26 April 1966; wrongfully had in his possession a number of full rum bottles on 26 April 1966; and failed to join his vessel upon its departure from Naha, Okinawa, on 27 May 1966.

Appellant did not appear at the hearing. The Examiner entered for the Appellant a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the Shipping Articles and Logbook of the vessel.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specifications had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of six months outright plus six months on twelve months' probation.

The entire decision was served on 9 July 1966. Appeal was timely filed on 27 July 1966.

FINDINGS OF FACT

From 3 March to 23 June, 1966, Appellant was serving as a First Assistant Engineer on board the United States SS BOWLING

GREEN and acting under authority of his license.

From 3 April through 10 April 1966, Appellant was absent from the vessel and his duties without permission.

On 11 April, 1966, Appellant was absent from his vessel without permission during the day, and returned to the vessel too intoxicated to stand his 2000 to 2400 watch.

On 26 April, 1966, Appellant abandoned his watch and was found in his bunk intoxicated, and failed to perform his duties that day. A search of his quarters on this occasion resulted in the discovery of 18 fifths and 8 pints of rum.

On 27 May, 1966, Appellant failed to join his vessel upon its departure from Naha, Okinawa.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that Appellant be given some clemency.

APPEARANCE: Seidman & Rome of Philadelphia; by Mr. Marshall J. Seidman, Esquire of counsel.

OPINION

The evidence is sufficient to support all of the specifications of misconduct alleged. Appellant was properly served with notice of the time and place of hearing, and elected not to appear. The hearing was held in absentia, as provided for by regulations. 46CFR §137.20-25. Appellant had been found guilty of misconduct in May 1964, and his license suspended for three months on twelve months' probation.

First Assistant Engineer is a key position aboard a merchant vessel, having great responsibility for the performance, and hence safety, of the vessel. Therefore, Appellant's numerous counts of misconduct while serving in this important position must be regarded as very serious. It is considered that the Examiner's order of a substantial outright suspension, plus a further suspension on probation, is not excessive under the circumstances of this case.

ORDER

The order of the Examiner dated at San Francisco, Calif. on 6 July 1966, is AFFIRMED.

P. E. TRIMBLE
Vice Admiral, U. S. Coast Guard
Acting Commandant

Signed at Washington, D. C., this 28th day of July 1967.

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